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13 **UNITED STATES DISTRICT COURT**

14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15 DENIS O'BRIEN AND DIGICEL  
16 GROUP LTD,  
17 Plaintiffs/Counterclaim Defendants,  
18 v.  
19 DONALD MACALLISTER,  
20 Defendant/Counterclaim Plaintiff.

Case No. SACV12-1965 JVS (ANx)

**UPDATED MOTION INDEX FOR  
COUNTERCLAIM  
DEFENDANTS' MOTION TO  
DISMISS, MOTION FOR  
SUMMARY JUDGMENT, OR IN  
THE ALTERNATIVE MOTION  
TO STAY**

Date: November 4, 2013  
Time: 1:30 p.m.  
Courtroom: 10C

**UPDATED MOTION INDEX**

Pursuant to the Court's Order for Jury Trial (D.I. # 28 at 2), counterclaim defendants Denis O'Brien and Digicel Group Ltd (collectively, "counterclaim defendants") submit the following Updated Motion Index in Support of Counterclaim Defendants' Motion To Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay, filed September 27, 2013:

**Counterclaim Defendants' Moving Papers**

1. Notice of Motion and Motion To Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay [D.I. # 58].
2. Memorandum of Points and Authorities in Support of Counterclaim Defendants' Motion To Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay [D.I. # 58-1].
3. Separate Statement of Uncontroverted Facts and Conclusions of Law in Support of Counterclaim Defendants' Motion for Summary Judgment [D.I. # 58-2].
4. Request for Judicial Notice in Support of Counterclaim Defendants' Motion To Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay [D.I. # 59].
5. Declaration of Brooke Pyo in Support of Counterclaim Defendants' Motion To Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay [D.I. # 61].
6. Declaration of Charles Christian Rolf Luthi in Support of Counterclaim Defendants' Motion To Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay [D.I. # 60].

1           7.     [Proposed] Order Granting Counterclaim Defendants' Motion To  
2 Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay  
3 [D.I. # 58–3].

4           8.     [Proposed] Judgment [D.I. # 58–4]

5     **Counterclaim Plaintiff's Opposition Papers**

6           1.     Defendant Donald MacAllister's Opposition To Defendants' Motion  
7 To Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay  
8 [D.I. # 65].

9           2.     Declaration of Donald MacAllister in Support of Opposition To  
10 Counterclaim Defendants' Motion To Dismiss, Motion for Summary Judgment, or  
11 in the Alternative, Motion To Stay [D.I. # 66].

12          3.     Statement of Genuine Issues in Opposition To Motion for Summary  
13 Judgment [D.I. # 67].

14          4.     Objection To Evidence [D.I. # 68].

15     **Counterclaim Defendants' Reply Papers**

16          1.     Reply in Further Support of Counterclaim Defendants' Motion To  
17 Dismiss, Motion for Summary Judgment, or in the Alternative, Motion To Stay  
18 [D.I. # 72].

19          2.     Declaration of Denis O'Brien in Further Support of Counterclaim  
20 Defendants' Motion To Dismiss, Motion for Summary Judgment, or in the  
21 Alternative, Motion To Stay [D.I. # 72–1].

22          3.     Counterclaim Defendants' (1) Response To MacAllister's Objection  
23 To Evidence and (2) Objections [D.I. # 73].  
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1           4.       Supplemental Declaration of Brooke Pyo in Further Support of  
2 Counterclaim Defendants' Motion To Dismiss, Motion for Summary Judgment, or  
3 in the Alternative, Motion To Stay [D.I. # 74].

4           5.       Certificate of Service [D.I. # 72-2].

5 Dated:   October 22, 2013

DAVIS POLK & WARDWELL LLP

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8 By:       /s/ Neal A. Potischman  
              Neal A. Potischman

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12 *Attorneys for Plaintiffs/Counterclaim*  
13 *Defendants Denis O'Brien and Digicel*  
14 *Group Ltd*

**CERTIFICATE OF SERVICE**

I hereby certify that I am and was at the time of the service mentioned in this declaration. I am over the age of 18 years and not a party to the within action. My business address is Davis Polk & Wardwell LLP, 1600 El Camino Real, Menlo Park, California 94025.

On October 22, 2013, I served copies of the following documents:

UPDATED MOTION INDEX FOR COUNTERCLAIM DEFENDANTS'  
MOTION TO DISMISS, MOTION FOR SUMMARY JUDGMENT, OR IN THE  
ALTERNATIVE MOTION TO STAY

on the interested parties in this action addressed as follows:

<b>PARTY</b>	<b>METHOD OF SERVICE</b>
Donald MacAllister 2618 San Miguel Drive, Suite 133 Newport Beach, CA 92660  <i>Defendant/Counterclaim Plaintiff</i>	BY U.S. MAIL
Daniel J Callahan Javier H Van Oordt Michael J Wright CALLAHAN AND BLAINE APLC 3 Hutton Centre Drive 9th Floor Santa Ana, CA 92707 Email: <a href="mailto:daniel@callahan-law.com">daniel@callahan-law.com</a> <a href="mailto:jvanoordt@callahan-law.com">jvanoordt@callahan-law.com</a> <a href="mailto:mwright@callahan-law.com">mwright@callahan-law.com</a>  <i>Counsel for Defendant Donald MacAllister</i>	BY ELECTRONIC SERVICE (through CM/ECF)
Keith G Wileman VEATCH CARLSON LLP 700 South Flower Street 22nd Floor Los Angeles, CA 90017-4209 Email: <a href="mailto:kwileman@veatchfirm.com">kwileman@veatchfirm.com</a>  <i>Counsel for Defendant Donald MacAllister</i>	BY ELECTRONIC SERVICE (through CM/ECF)

1 ☒ (BY U.S. MAIL) I am familiar with the office practice of Davis  
2 Polk & Wardwell LLP for collecting and processing documents for  
3 mailing with the United States Postal Service. Under that practice,  
4 documents are deposited with the Davis Polk & Wardwell LLP  
5 personnel responsible for depositing documents with the United  
6 States Postal Service; such documents are delivered to the United  
7 States Postal Service on that same day in the ordinary course of  
8 business, with postage thereon fully prepaid. I deposited in Davis  
9 Polk & Wardwell LLP's interoffice mail a sealed envelope or  
10 package containing the above-described document and addressed as  
11 set forth below in accordance with the office practice of Davis Polk  
12 & Wardwell LLP for collecting and processing documents for  
13 mailing with the United States Postal Service.

8 ☐ (BY OVERNIGHT DELIVERY) I placed the documents listed  
9 above in a sealed Federal Express envelope and affixing a pre-paid air  
10 bill, and causing the envelope to be delivered to a Federal Express  
11 agent for delivery.

11 ☒ (BY ELECTRONIC SERVICE) I caused the foregoing  
12 documents to be electronically served via CM/ECF for the United  
13 States District Court, Central District of California upon all parties  
14 registered with CM/ECF and listed on the court docket for this case.

13 I declare under penalty of perjury under the laws of the United States of  
14 America that the above is true and correct.

15 Executed on October 22, 2013 at Menlo Park, California.

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